

trailer hitch of Hale; rather, it is intended for use with a gooseneck trailer hitch after the embodiment of that disclosed in Johnson.

Applicant notes at the outset that it is impossible for the present invention to be used with the gooseneck trailer hitch design of Hale. That said, the Prior Art, in view of Hale, does not teach or suggest that a particular lock may be threaded into a Johnson-type gooseneck trailer hitch structure to secure against insertion or removal of a hitch ball from the gooseneck trailer hitch. Hale further suffers from the complexity that the present invention avoids. That is, in Hale, a structure intended to receive a padlock must be included in the design of the gooseneck trailer hitch, namely, the lock hanger, handle locking hole, and rotation-preventing protruding rod, to prevent insertion or removal of a hitch ball from the gooseneck trailer hitch. *See* Hale, Figs. 1 & 2, col. 4, ll. 55-62, col. 6, ll. 21-28. Absent this structure, a person would be unable to secure the Hale hitch against theft. The present invention, unlike Hale, does not require a securing structure designed for use with a padlock; rather, as more fully described below, it utilizes a lock of specific dimensions threaded into a new and different location to prevent theft of a gooseneck trailer hitch by securing against insertion or removal of a hitch ball from the gooseneck trailer hitch. Thus, Hale does not suggest or teach the present invention.

Johnson is an “after-market” type of gooseneck trailer hitch securing device that teaches the use of a padlock with a bulky and rather unwieldy bracket and pin system to secure a hitch. *See* Johnson, Figs. 5 & 6, col. 5, l. 63 to col. 6, l. 15. That is, the Johnson device is not part of the gooseneck trailer hitch structure – it is a discrete securing structure, further requiring a lock, that may be utilized to secure the hitch, or set aside, as the situation requires. The present invention avoids this complexity by the expedient of specific lock placement within the structure of the gooseneck trailer hitch itself. The present invention, unlike Johnson, does not require a

discrete securing structure requiring further use of a padlock. Rather, as particularly seen in Figs. 13 & 17 of the application, the present invention provides for specific placement of a lock in the hitch structure itself, namely, insertion into the central opening of the retainer bracket to prevent the stationary and lock plate apertures from aligning to so prevent insertion or removal of a hitch ball into the hitch structure. Thus, the Prior Art, in view of Johnson, does not teach or suggest that a particular lock may be threaded into the gooseneck trailer hitch structure to secure against theft.

Applicant notes that in general, the prior art hitch locking devices appear to fall into two categories, namely, (1) locking means designed into the hitch device itself, *e.g.*, Hale, and (2) locking means designed for, but entirely separate from, the hitch device, *e.g.*, Johnson. In both categories, a specific structure designed to receive a padlock is taught. The present invention falls into neither of the categories; rather, as noted above, it utilizes a lock of specific dimensions threaded into a new and different location to prevent theft of a gooseneck trailer hitch by securing against insertion or removal of a hitch ball from the gooseneck trailer hitch. Specifically, the lock is utilized with a Johnson-type gooseneck trailer hitch, and is inserted into the retainer bracket next to the flange of the stationary plate to “lock” the stationary and lock plate apertures into misalignment. Thus, rather than teach additional and complex designs to lock a gooseneck trailer hitch, the present invention teaches a simple, but not readily apparent, means and method for securing a gooseneck trailer hitch without intermediate structural securing means. It is an elegant, yet simple solution to a recognized problem. Indeed, “the simplicity of new inventions is often times the very thing that is not obvious before they are made.” *In re Spock*, 301 F.2d 686, 689 (C.C.P.A. 1962); *see In re Kotzab*, 217 F.3d 1365, 1371 (Fed. Cir. 2000)(“idea” in a patent’s claims was a technologically simple concept: “With this simple

concept in mind, the PTO found prior art statements that in the abstract appeared to suggest the claimed limitation. But, there was no finding as to the specific understanding or principle within the knowledge of a skilled artisan that would have motivated one with no knowledge of [the inventor's] invention to make the combination in the manner claimed.”); *Demaco Corp. v. F. Von Langsdorff Licensing Ltd.*, 851 F.2d 1387 (Fed. Cir. 1988)(“the patent statute [does not] require that an invention be complex in order to be non-obvious.”).

Further regarding claims 10 and 11, Examiner states that a change in size of prior art is a design consideration with in the skill of the art. However, Applicant notes that even a minor design change may produce a patentable invention. *See In re Gordon*, 733 F.2d 900, 902 (Fed. Cir. 1984)(although a prior art device could have been turned upside down, that did not make the modification obvious unless the prior art fairly suggested the desirability of turning the device upside down). The case cited against Applicant, *In re Rose*, 220 F.2d 459 (C.C.P.A. 1955), is inapposite because the present invention does not merely scale the invention up or down as a “matter[] of choice involving differences in degree or size.” Rather, claims 10 and 11 claim locking apparatus dimensions that are required for certain gooseneck trailer hitch designs – the dimensions are not simply a matter of choice independent of gooseneck trailer hitch design. Specifically, the lock, as seen in Figs. 12-14, 17 and 18 of the Application, must be sized for insertion into the central opening of the retainer bracket in a manner that substantially immobilizes the stationary and lock plate apertures into misalignment. Thus, although Examiner is correct that the size of an article is *ordinarily* not a matter of invention, here, the claimed dimensions serve to ensure proper placement of the lock in the manner claimed. Having discovered and claimed a new method for locking a gooseneck trailer hitch, Applicants claim a locking apparatus having new and unique dimensions to better perform that method.

For the above reasons, the locking apparatus and method of locking a gooseneck trailer hitch as disclosed in claims 8-11 and 15 are not obvious to one of ordinary skill in the art.

CONCLUSION

Applicant has addressed each of the concerns of the Examiner regarding the Claims in the present application. Applicant thus requests allowance of the Claims. Should any further impediments to allowance of the Claims exist, Applicant requests that the Examiner contact the undersigned attorney at the indicated phone number.

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I hereby certify that this paper and/or fee and all documents indicated as being attached are being deposited with the United States Postal Service on the date indicated below with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, DC, 20231.

Date of Deposit: October 11, 2002



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